

## ***Chapter 20 - Affordability Requirements***

### ***A. Award Conditions***

In your application you stated that you would meet specific Area Median Income (AMI) levels. You must continue to meet these requirements throughout your affordability period, e.g. 100% of units committed to serving households with incomes less than 30% AMI, you must continue to move in households with incomes less than or equal to 30% AMI.

### ***B. Rent Restrictions***

- If an SRO-unit has neither food preparation nor sanitary facilities, or only one, the rent may not exceed 75 percent of the Fair Market Rent (FMR) for a zero-bedroom unit. For example, the FMR for a 0-bedroom unit in a given county is \$300. The 40% rent limit for an SRO unit in that county that only has a bathroom and not a kitchen would be \$225 ( $\$300 \times 75\% = \$225$ ).
- If the unit is classified as a group home, the rent charged to the development would be based on the number of bedrooms of the group home, e.g. a group home with four bedrooms would use the applicable rent schedule for a four bedroom unit and each person's rent would be its proportionate share of the total unit rent.
- If the unit receives Federal or State project-based rental subsidy (project based rental assistance and Rural Development project-based assistance) and the very low income family (less than or equal to 50% AMI) pays as a contribution toward rent not more than 30 percent of the family's adjusted income, then the maximum rent (i.e. tenant contribution plus the project-based rental subsidy plus utility allowance) is the rent allowable under the Federal or State subsidy program. However, once the tenant income exceeds 50% AMI, the rent that is allowed to be charged reverts back to the maximum HOME rent limits.

#### ***a. How do I calculate rent?***

1. Determine which AMI level your household fits into based on your award conditions.
2. Determine the utility allowance for the unit based on bedroom size.
3. Determine the amount if any that the household will be receiving in other rental subsidy.
4. Determine if your development receives federal or state project-based rent subsidy (Section 8 or Rural Development).
5. Determine the total maximum rent.
6. Tenant Rents equals – the maximum rent allowed for AMI level less the utility allowance less other rental assistance; this is the maximum rent that can be charged.

*Example 1:*

Household Size: 3 persons  
Income: \$26,350 yearly  
County: Greene  
AMI: 56%

Maximum 3-bedroom Rent (60% Unit): \$554  
Utility Allowance: \$80  
Section 8 Assistance: \$50

Maximum Tenant Rent: \$424 (\$554-\$80-\$50)

*Example 2:*

Household Size: 3 persons  
Income: \$26,350 yearly  
County: Greene  
AMI: 56%

Maximum 3-bedroom Rent (60% Unit): \$554  
Utility Allowance: \$0 (owner pays all utilities)  
Section 8 Assistance: \$0

Maximum Tenant Rent: \$554

*Example 3:*

*This example is different in that the entire development receives federal or state project-based rent subsidy and tenants at or below 50% AMI pay not more than 30% of his/her adjusted income for rent, the maximum rent may be the rent allowable under the project-based subsidy program, 24 CFR, Part 92.252(b)(2).*

Household Size: 4 persons  
Income: \$25,000 yearly  
County: Greene  
AMI: 42%

Maximum 3-bedroom Rent (50% Unit): \$541  
Maximum Tenant Rent Via Project Based Allowance: \$600  
Utility Allowance: owner pays all utilities  
Section 8 Assistance: \$50

Maximum Tenant Rent: \$550 (\$600 less \$50)

The tenant contribution can be \$550 (which exceeds the maximum HOME rent limit) because the development is receiving project-based rental assistance.

***c. When must tenants income be reverified?***

All tenants must be re-income verified on an annual basis and a new lease executed.

***d. What do I do if tenant income increases?***

You may raise rents to the applicable rent limit, but you do not have to unless the AMI level of the household exceeds 80%. The following chart outlines the maximum rents during the affordability period tenants can be charged.

AMI level	HOME “fixed”	HOME “floating”
30% Units	Rent may not exceed 30% Rent Limit	Rent may not exceed 30% Rent Limit
40% Units	Rent may not exceed 40% Rent Limit	Rent may not exceed 40% Rent Limit
50% Units	Rent may not exceed 50% Rent Limit	Rent may not exceed 50% Rent Limit
60% Units	Rent may not exceed 60% Rent Limit	Rent may not exceed 60% Rent Limit
60 – 80% Units	Rent may not exceed 60% Rent Limit	Rent may not exceed 60% Rent Limit
Above 80% Units	30% of adjusted tenant income	30% of adjusted tenant income not to exceed market rent for comparable unit in area

If you have a HOME/RHTC development, please refer to the HOME/RHTC development section.

***e. When must I replace a non-compliant unit?***

*Fixed units* remain the same throughout the period of affordability.

*Floating units* are changed to maintain conformity during the period of affordability so that the total number of housing units meeting the requirements of this section remains the same, and each substituted unit is comparable in terms of size, features, and number of bedrooms to the originally designated HOME-assisted unit.

Example:

10 Units in Development

- 5 1-Bedrooms
- 5 2-Bedrooms

4 HOME-Assisted Units

- Unit A: 1 Bedroom at 30% AMI
- Unit B: 1 Bedroom at 40% AMI
- Unit C: 2 Bedroom at 30% AMI
- Unit D: 2 Bedroom at 40% AMI

Fixed

Example 1:

Unit A: Household moved into development with an AMI of 25%. Income Re-certification shows household at 65% AMI. This unit is temporarily out of compliance. You would not replace this unit with a household with an income at or below 30% AMI until the current household moves out of the development.

At income re-certification, you could raise rent to an amount that does not exceed the 60% Rent Limit.

Floating

Example 1:

Unit A: Household moved into development with an AMI of 25%. Income Re-certification shows household at 65% AMI. This unit is temporarily out of compliance. The next 1-Bedroom unit that becomes available would be replaced with a household with an income at or below 30% AMI.

At income re-certification, you could raise rent to an amount that does not exceed the 60% Rent Limit.

**Example 2:**

Unit D: Household moved into development with an AMI of 38%. Income Re-certification shows household at 93% AMI. This unit is temporarily out of compliance. You would not replace this unit with a household with an income at or below 40% AMI household until the household moves out of the development.

You would charge this household 30% of adjusted tenant income.

**Example 2:**

Unit D: Household moved into development with an AMI of 38%. Income Re-certification shows household at 93% AMI. This unit is temporarily out of compliance. The next 2-Bedroom unit that becomes available would be replaced with a household with an income at or below 40% AMI.

You would charge this household 30% of adjusted tenant income not to exceed market rent for comparable unit in area.

### ***C. HOME/RHTC Developments***

If your development received both HOME/RHTC, the following chart illustrates the rent limits applicable to your development.

AMI level	HOME/RHTC
30% Units	< of 30% HOME Rent Limit or RHTC Rent Limit
40% Units	< of 40% HOME Rent Limit or RHTC Rent Limit
50% Units	< of 50% HOME Rent Limit or RHTC Rent Limit
60% Units	< of 60% HOME Rent Limit or RHTC Rent Limit
60 – 80% Units	< of 60% HOME Rent Limit or RHTC Rent Limit
Above 80% Units	<ul style="list-style-type: none"><li>• 100% tax credit building – rent can never exceed the 60% limit</li><li>• 100% tax credit building on mixed project (50%/60% Units) – 50% unit cannot have increased rent to the 60% level until both the tenant income reaches 140% of the 50% AMI and the 50% unit has been replaced</li><li>• Market and RHTC – tenant stays at move-in limit until both the income increases to 140% of the 60% AMI and the unit has been replaced then the rent of this tenant can be raised as high as the property manager sees fit</li></ul>

### ***D. CDBG Program Income***

CDBG regulation, 24 CFR 570.489, defines program income as the gross income received by a state, unit of local government or a subrecipient that was generated from the use of CDBG funds. Program income includes, but is not limited to the following:

- Proceeds from the sale of CDBG assisted housing;
- Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds;
- Proceeds from the disposition of equipment purchased with CDBG funds;
- Gross income from the use or rental of real or personal property acquired by the unit of general local government or a subrecipient of a unit of a local unit of government with CDBG funds, less the costs incidental to the generation of income;

- Gross income from the use or rental of real property owned by the unit of general local government or a subrecipient of a unit of general local government, that was constructed or improved with CDBG funds, less the costs incidental to the generation of income;
- Payments of principal and interest on loans made using CDBG funds;
- Proceeds from the sale of loans made with CDBG funds;
- Proceeds from the sale of obligations secured by loans made with CDBG funds;
- Interest earned on funds held in a revolving fund account; and
- Interest earned on program income pending disposition of the income.

Program Income that is generated by an activity that was only partially assisted with CDBG and leveraging funds, the income shall be prorated to reflect the percentage of CDBG funds used.

The following outlines the three methods in which CDBG program income should be treated.

1. Program income that is generated when an entity has another open CDBG award, the program income should be spent on the current award prior to drawing down additional funds from IHFA. Additionally, the maximum amount of CDBG program income that may be expended on program delivery, administration and environmental review is limited to 20% of the total receipt.
2. If an entity does not have an open award, program income amounting to less than \$25,000 received during the local unit of government's fiscal year may be kept by the local unit of government and is not subject to the program income requirements.
3. If an entity does not have an open award, program income amounting too greater than or equal to \$25,000 received during the local unit of government's fiscal year may not be kept by the local unit of government and must be returned to IHFA. However, under certain circumstances, IHFA may permit you to establish a revolving loan fund for additional CDBG-eligible activities. For further information on this issue, please contact your IHFA Compliance Monitor.

### ***E. HOME Program Income***

HOME Program Income is gross income received by the participating jurisdiction (IHFA), state recipient (local unit of government) or an IHFA HOME subrecipient directly generated from the use of HOME funds or matching contributions.

Program Income is not funds recaptured from a homebuyer who does not meet his affordability period or who is foreclosed upon. These funds are recaptured funds and must be returned to IHFA.

Income generated by CHDOs, not-for-profits, or for-profits acting as owners, sponsors or developers of HOME units are not considered program income.

When housing that generates program income is only partially assisted with HOME funds or matching funds, the income shall be prorated to reflect the percentage of HOME funds used. Program income includes, but is not limited to, the following:

1. proceeds from the disposition by sale or long-term lease of real property acquired, rehabilitated, or constructed with HOME funds or match contributions;
2. gross income from the use of rental of real property, owned by the participating jurisdiction, State recipient, or a subrecipient, that was acquired, rehabilitated, or constructed, with HOME funds or matching contributions, less costs incidental to generation of the income;
3. payments of principal and interest on loans made using HOME funds or matching contribution;

4. proceeds from the sale of loans made with HOME funds or matching contributions;
5. proceeds from the sale of obligations secured by loans made with HOME funds or matching contributions;
6. interest earned on program income pending its disposition; and
7. any other interest or return on the investment permitted under § 92.205(b) of the HOME funds or matching contribution.

The following outlines the three methods in which HOME program income should be treated.

#### *1. Treatment by Local Unit of Government*

Local units of government that receive HOME repayments during the affordability period must return the funds to the IHFA. However, if you have an open HOME award with the IHFA, you must use these funds prior to drawing additional funds from the IHFA. The funds must only be utilized on the following line items: new construction, rehabilitation, program delivery and demolition.

#### *2. Treatment by Not for Profit or For Profit Not Acting as an Owner, Sponsor or Developer (e.g. owner occupied)*

Not-for-profit entities or for-profit entities that receive HOME repayments during the affordability period must return the funds to the IHFA. However, if you have an open award with IHFA, you must use these funds prior to drawing down additional funds from IHFA. The funds must only be utilized on the following line items: new construction, rehabilitation, program delivery and demolition.

#### *3. Treatment by Not for Profit or For Profit Acting as an Owner Sponsor or Developer*

Not for profit entities or for profit entities receiving payment back from homebuyers or rental tenants during the affordability period may keep these funds and the funds must be utilized for housing activities that benefit low-income families as provided in the IHFA Shelters to Homeownership Application package.

#### *4. Treatment by a CHDO*

CHDOs receiving payment back during the affordability period may retain these funds. The funds must be utilized for housing activities that benefit low-income families as provided in 24 CFR 92.300(a)(2).

However, if at any time during the affordability period, the CHDO becomes decertified or no longer has a mission of providing affordable housing then all CHDO proceeds must immediately be remitted to IHFA. Please contact your Compliance Monitor for further assistance in this area.

### ***F. HOME Recaptured Funds***

If funds are recaptured because the housing no longer meets affordability requirements, regardless of the entity or activity, these funds must be returned to the IHFA.

## ***G. Rental Reporting***

IHFA will send a letter informing you when your first report is due to IHFA. HOME and CDBG recipients of the following activities will be required to submit an Annual Rental Report throughout the affordability period:

- Emergency Shelter;
- Youth Shelter;
- Migrant/Seasonal Farm Worker Housing;
- Transitional Housing;
- Permanent Supportive Housing; and
- Rental Housing.

The report covers the period January 1 – December 31 and is due to IHFA offices by the close of business January 31<sup>st</sup>.

The rental report comprises the following:

- Owner Certification Form;
- Property Information Form; and
- Tenant Information Form.

The rental report will be mailed to those entities that are required to submit this report and will be available on the IHFA website in late November or early December each year.

## ***H. Rental Inspection***

All transitional housing, permanent supportive housing and rental housing properties will be inspected throughout your affordability period based on the following:

<b>Total # of Units in Development</b>	<b>Inspection Period</b>
1 – 4 Units	Every 3 Years
5 – 25 Units	Every 2 Years
26 or More Units	Every Year

All emergency shelters, youth shelters and migrant seasonal farmworker housing will be inspected every 2-years regardless of the number of beds in the development.

IHFA staff or a representative of IHFA will conduct the inspection.

### ***HOME Inspection***

The inspector will ensure that your development meets the stricter of the Indiana State Building Code and/or local rehabilitation standards. Additionally, they will ensure there is not health and safety violations. If items are found to be non-compliant with the Indiana State Building Code and/or local rehabilitation standards, you will be required to correct those items.

### ***CDBG Inspection***

The inspector will ensure that there are no health and safety violations. If items are found to be health and safety violations, you will be required to correct those items.

## ***I. Tenant File Reviews***

All developments will have a tenant file review in the same year the development has an inspection. IHFA staff or a representative of IHFA will conduct the tenant file review. The tenant file review will either be conducted on-site or through a desktop review. Regardless of whether it is done on- or off-site, the review will consist of the following:

### ***a. Fair Housing and Equal Opportunity***

Are the fair housing and equal opportunity posters displayed at:

- (1) The property location if a single site project; and/or
- (2) At the site where residents apply for housing.

### ***b. Lead Based Paint Educational Information***

Is the Lead Based Paint Poster displayed at:

- (1) The property location if a single site project;
- (2) At the site where residents apply for housing; and
- (3) Annual re-certification of the unit passing a visual assessment (as required by the Lead-Based Paint regulations).

### ***c. Affirmative Marketing (only for projects with 5 or more HOME-assisted permanent supportive housing, transitional housing or rental units)***

IHFA will review your Affirmative Marketing Plan process utilized in determining the market least likely to apply for housing, and how you marketed your units to this segment of the population. We will review documentation including brochures, advertisements and marketing materials that were utilized.

Each year, you must re-evaluate your market least likely to apply for your housing and target your marketing efforts to meet this segment of the population.

### ***d. Tenant Selection Policies***

IHFA will review your tenant selection policies utilized by management. The written policy should allow IHFA staff to determine how tenants are selected and the criteria used for approving applicants.

### ***e. Utility Allowance***

IHFA will review documentation of utilities paid by the tenant versus those paid by the owner.

### ***f. Tenant Files***

For each tenant randomly selected, you will need to provide the following documentation:

- Lease;
- Income verification & documentation;
- Utility allowance & documentation; and
- Documentation of the receipt of the applicable brochures.

### ***J. Ongoing Supportive Services Match***

For developments that identified ongoing supportive services to meet their match liability, information on these services must be submitted on an annual basis with your Annual Rental Report. To properly document the match, please submit the following:

- A completed Individual Site – Match Summary Form for the specific award and property;
- A summary of the services by unit number including:
  - Type of services provided;
  - Employee(s) providing the services;
  - Number of hours provided by each employee ;
  - Rate of pay for the employee(s) providing the service; and
  - Supporting documentation verifying the rate of pay.